

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JOSE ANTONIO PRADO-DIAZ,

Plaintiff,

v.

CIV No. 12-779 MCA-GBW

STATE OF NEW MEXICO, *et al.*,

Defendants.

**PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

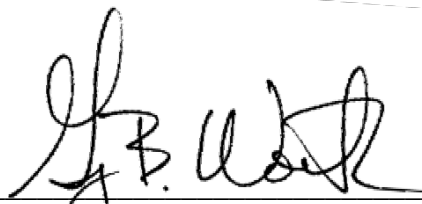
This matter comes before me upon review of the record. On May 14, 2013, this Court issued an Order to Show Cause directing Plaintiff to show cause why his action should not be dismissed on the basis that Plaintiff has failed to notify the court as to his apparent change of address. *See doc. 21*. Plaintiff has not responded to the Court's order. I therefore recommend that Plaintiff's action be dismissed.

Plaintiff filed his § 1983 Complaint on July 16, 2012. *Doc. 1*. Defendants answered on August 15, 2012 (*doc. 7*), and this Court ordered a *Martinez* report on January 11, 2013. Defendants filed that report on May 2, 2013, (*doc. 18*) and in it noted that they had attempted to contact Plaintiff multiple times and received no response. *See id.* at 8-9 & Exs. E, F, H. This Court issued its Order to Show Cause on May 14, 2013. *Doc. 21*. The Order to Show Cause was mailed both to the address currently listed for Petitioner of the docket and to a second address which Petitioner had utilized in a

separate case in this District. *See id.* The Order to Show Cause sent to the address on the docket was returned to the Court as “undeliverable” on May 24, 2013. *Doc. 23.* The stamp on the envelope indicates that Plaintiff has been “released” from the Giles W. Dalby Correctional Facility located in Post, Texas, which is the address currently listed for Petitioner on the Court’s docket. *Id.*

Petitioner has not responded to the Order nor has he provided a new address to the Court despite his duty to do so. *See D.N.M.LR-Civ. 83.6.* In fact, Petitioner has not filed anything since his motion to proceed *in forma pauperis* on July 16, 2012. *See doc. 3.*

As set forth in the Court’s Order to Show Cause, Plaintiff’s action is subject to dismissal for failure to comply with the local rules and for failure to respond to the Court’s Order. *See doc. 21.* I therefore recommend that the Court dismiss this action with prejudice.



GREGORY B. WORMUTH  
UNITED STATES MAGISTRATE JUDGE

**THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE** of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). **A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**